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09/635,073

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02/04/2005

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EXAMINER

MOORE JR, MICHAEL J

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/635,073

Applicant(s)

PERINPANATHAN ET AL.

Examiner

Michael J. Moore, Jr.

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-33 and 40-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-30 and 40-51 is/are allowed.
- 6) ☒ Claim(s) 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims **31-33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. (U.S. 2001/0044845) ("Cloonan") in view of Swale et al. (U.S. 5,822,411) ("Swale").

Regarding claims **31-33**, Cloonan teaches a method where requests for service level changes are sent from a subscriber (user station) to a service level processor on an as-needed basis as spoken of on page 1, paragraph 8 as well as page 3, paragraph 22. Cloonan fails to teach receiving a modified settlement procedure that differs from a settlement procedure subscribed to by the station, determining whether the modified

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settlement procedure can be accommodated, modifying the subscriber service level to a new service level if the modified settlement procedure can be accommodated, and allocating costs associated with the new service level in accordance with the modified settlement procedure.

However, Swale teaches a communications charging method where a called party (user station) can request the network operator (network element) to vary the charging (modified settlement procedure) applied to a received call as spoken of on column 3, lines 1-13. Swale also teaches on column 3, lines 14-24 that the party to whom the charges for the call are to be debited is alerted by the network operator prior to the charge variation being made. The charged party may then refuse the charge variation should they desire. A response is then sent back to the party requesting charge variation. This method constitutes the determination of whether a modified settlement procedure can be accommodated and modifying the service level accordingly.

Swale also teaches on column 3, lines 33-39 that charging information is modified upon determination of whether the request for charge variation was successful. At the time of the invention, it would have been obvious to someone skilled in the art given these references to combine the service level teachings of Cloonan with the call charge variation of Swale in order to provide a flexible method for charging for telecommunications services applicable in telephony based services as well as broadband services as spoken of on column 1, lines 4-8 of Swale.

***Allowable Subject Matter***

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4. Claims **17-30 and 40-51** are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims **17-30**, these claims are allowable for the reasons indicated in the previous Office Action.

Regarding claims **40-42**, these claims are allowable for the same reasons as claims **17-19** indicated in the previous Office Action.

Regarding claims **43-44**, these claims are allowable for the same reasons as claims **21-22** indicated in the previous Office Action.

Regarding claims **45-51**, these claims are allowable for the same reasons as claims **23-29** indicated in the previous Office Action.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims **31-33** have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that neither Cloonan or Swale teach a modification of a service level associated with a connection based on a determination of whether the modified settlement procedure can be accommodated. However, it is believed that Swale teaches this limitation as described above in the art rejection section.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Christie (U.S. 6,754,180), Arango et al. (U.S. 6,724,747), and Elliott et al. (U.S. 6,614,781) are references that contain material pertinent to this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Moore, Jr. whose telephone number is (571) 272-3168. The examiner can normally be reached on Monday-Friday (8:30am - 5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached at (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent

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Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael J. Moore, Jr.  
Examiner  
Art Unit 2666

mjm MM



**FRANK DUONG**  
**PRIMARY EXAMINER**